

REMARKS

This is a full and timely response to the non-final Official Action mailed October 28, 2004. Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested.

By the forgoing amendment, claim 5 has been amended. Claims 1-4, 8-12 and 45-52 have been cancelled. Claims 13-44 were withdrawn previously subject to a Restriction Requirement. Additionally, new claims 67-73 have been added. Thus, claims 5-7 and 53-73 are currently pending for the Examiner's consideration.

The recent Office Action asked for clarification as to the difference in scope between claims 5 and 47. This issue is rendered moot by the cancellation in this paper of claim 47.

The recent Office Action also draws Applicant's attention to the rules for the proper use of trademarks in a patent application. According to the Action, there are three trademarks used in the present application, Liponics EG-1, Surfynol and Tegitol. The specification, as originally filed, capitalized every instance of the indicated trademarks. In a previous amendment, Applicant had added the "®" symbol to Surfynol and Tegitol. The symbol was not added to Liponics EG-1 because "Liponics" is not a registered trademark, and an application to register it was abandoned. Therefore, the trademark status of "Liponics" is in question. However, in an abundance of caution, Applicant has, by the present amendment, added "™" after Liponics EG-1. Therefore, the present application should be in complete compliance with all rules governing the use of trademarks in a patent application. Notice to this effect is respectfully requested.

The recent Office Action also indicated that dependent claims 53-66 are allowable and that claims 5-7 and 47 would be allowable if rewritten in independent form including all the recitations of the base claim and any intervening claims. Applicant wishes to thank the Examiner for this indication of allowable subject matter.

However, there seems to be some confusion. In a previous amendment, Applicant already amended claims 6 and 7 to place them in independent form. Claim 5 is amended by the present paper and placed in independent form including all the recitations of the base claim and any intervening claims.

Consequently, following entry of the present amendment, claims 5-7 and 53-66 should be in condition for immediate allowance based on the Examiner's identification of allowable subject matter. Applicant agrees that these claims are allowable because the prior art fails to teach, anticipate or render obvious the invention as claimed, independent of how the claims are paraphrased.

Additionally, newly-added claims 67-73 are dependent upon allowable claim 5. Consequently, the newly added claims are also in condition for immediate allowance based on the determined allowability of claim 5.

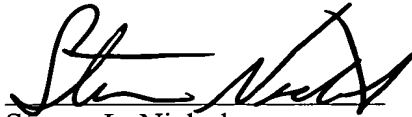
With regard to the prior art, claims 1-4, 8-11, 45, 46 and 48-51 were rejected as anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 6,274,661 to Chen et al. ("Chen"). Claims 12 and 52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the combined teachings of Chen and U.S. Patent Publication 2004/0152824 to Dorbowolski. Claims 1-4, 8-12, 45, 46 and 48-52 were rejected as being anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 6,734,237 to Taylor et al. ("Taylor").

The rejections are all rendered moot by the cancellation herein of the rejected claims. Consequently, following entry of this amendment, only those claims indicated as allowable remain pending.

For the foregoing reasons, the present application is thought to be clearly in condition for allowance. Accordingly, favorable reconsideration of the application in light of these remarks is courteously solicited. If the Examiner has any comments or suggestions which could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

Respectfully submitted,

DATE: 26 January 2005


Steven L. Nichols
Registration No. 40,326

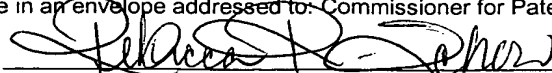
Steven L. Nichols, Esq.
Managing Partner, Utah Office
Rader Fishman & Grauer PLLC
River Park Corporate Center One
10653 S. River Front Parkway, Suite 150
South Jordan, Utah 84095

(801) 572-8066
(801) 572-7666 (fax)

CERTIFICATE OF MAILING

DATE OF DEPOSIT: January 26, 2005

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail on the date indicated above in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450.


Rebecca R. Schow